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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,748	07/06/2000	Young-Hwa Kim Ph. D.	2539738-78377	5015

7590 09/22/2004

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EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/610,748

Applicant(s)

KIM PH. D. ET AL.

Examiner

Jeremy R. Pierce

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Elizabeth M. Cole
ELIZABETH M. COLE
PRIMARY EXAMINER

Continuation of 2. NOTE: Claim 84 now recites the metal plates are "approximately planar and identical." This new limitation raises new issues not previously considered. Also, the amendment to the specification that replaces the paragraph starting on page 44, line 10 adds that "the layers are capable of movement relative to other layers or substrates." This statement is new matter. The recitation that the layers may be spot-bonded does not necessarily implicate that relative movement between the layers is possible because spot-bonding may be done extensively to limit movement.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's amendment does not cure the 112 first paragraph rejection set forth in section 4 of the last Office Action. Additionally, Applicant's arguments do not overcome the prior art rejections set forth in the last Office Action. Harpell teaches that the plates may be bonded using adhesive. Harpell does not require stitching the plates to the substrate. Thus, holes in the plates would not be required. Applicant argues that modifying Patchett in view of Kobren would fundamentally alter the body armor function of Patchett and render it unable to protect against bullets. However, Patchett and Kobren are both in the field of body armor because both are designed to protect wearer's from sharp objects. Patchett also teaches the material may have diverse uses (page 2, line 9) and that flexibility may be obtained by adjusting the thickness of the plates (page 2, line 21). As to the linear gap width argument, Cunningham teaches using equilateral hexagons. Use of these hexagons in the material of Patchett would create linear gaps. Also, Applicant's recitation that the plates are planar in claim 84 raises a new issue.